

## Pat Perez - Possible Impacts of MTBE Phaseout

---

**From:** <DonaldJakel@aol.com>  
**To:** <pperez@energy.state.ca.us>  
**Date:** 2/25/02 10:48 AM  
**Subject:** Possible Impacts of MTBE Phaseout

---

As a consumer of gasoline, I would be extremely upset to have to pay an additional 50 cents or \$1.00 or more for gas, simply because an arbitrary date of 12/31/2002 for MTBE phaseout was blindly adhered to. I urge you to recommend an extension of the phaseout until a successful transition to ethanol has been achieved. Sincerely,  
DonaldJakel@aol.com

## Main Identity

---

**From:** "Pat Perez" <Pperez@energy.state.ca.us>  
**To:** <Wmaloney@aol.com>; <pperez@energy.ca.gov>  
**Sent:** Monday, March 04, 2002 10:16 AM  
**Subject:** Re: Possible Impacts on Phaseout of MTBE on Gasoline Supplies

Thanks, Mr. Maloney.

>>> <Wmaloney@aol.com> 02/28/02 06:05PM >>>

Dear Mr. Perez,

I have reviewed the "Stillwater Report" on the possible impacts of the phaseout of MTBE on gasoline supplies in California. While it appears to me that there are several issues regarding the assumptions and conclusions regarding the supply demand balance that are questionable, I address my comments below only to those areas where I and our company have personal and direct knowledge of facts that I believe are pertinent.

Re: Ethanol Supply & Logistics – Our company ED & F Man Alcohol Inc. is one of the largest international traders of alcohols, fuel, beverage and industrial. We currently supply in excess of 40 million gallons per annum of fuel ethanol to the US West Coast from plants we operate in Jamaica and plants we market product for in Costa Rica and El Salvador. I wish to unequivocally state that we are prepared to supply in excess of 100 million gallons of fuel ethanol per annum to the California market, and the other Caribbean producers that we work with can also supply (in 2003) another 40 million gallons per annum. This product can be supplied at competitive prices with no logistical problems. ①

We are currently in negotiation with five of the major oil companies representing approximately 85% of California's gasoline supply to supply waterborne barrels of ethanol at prices indexed to gasoline prices or on a fixed price basis. The volume that we are prepared to supply with the other Caribbean producers is equal to the total volume that these oil companies have indicated that they will require by marine delivery. We can also supply the marine needs of the remaining gasoline suppliers – however, they haven't indicated to us a requirement yet for marine deliveries.

All California's marine ethanol requirements can be provided by the Caribbean producers with no requirement to use US flag vessels.

Further, the logistics for marine delivery are all in place or will be in place by September of 2002. We have worked out the logistics with each of these major oil companies, some product will be imported into a major oil company facilities in Carson/San Pedro, some into a third party Long Beach terminal, some into our own terminal (Westway) and some into ST/Shore Terminals in Selby. ②

The feedstock supplies for our ethanol production (primarily Brazil) are currently in plentiful supply. This may not be the case in three years time.

Re: Gasoline supplies – the report fails to note that a refiner in the Pacific Northwest is capable and willing to supply 20,000 barrels per day of CARBOB to California. A 100% increase in prices is not required to have this supply dedicated to California.

Further, in anticipation of the MTBE phaseout the major oil companies have been able to allocate international resources to California, e.g., alkylates, that will likely not be available three years hence – when other oil market's economies recover. This will reduce supply disruptions.

In conclusion careful examination of the facts indicates that the best time to implement the phaseout of MTBE is at the end of 2002 – as all plans, supplies and logistics are in place to cover both the ethanol and gasoline requirements.

Sincerely,

William M. Maloney  
 Director of Business Development  
 ED & F Man Alcohol Inc.  
 Tel: 805-682-6976  
 fax: 805-682-9663

3/4/2002

44

# **History of Clean, Reformulated Fuels and the Role of MTBE to Improve Air Quality in the United States**

*Remarks Also Discuss Economic Motivation and the Historical Role of the  
Archer Daniels Midland Company (ADM) and Their Effort to Ban MTBE*

## **Opening Remarks of Frederick L. Potter**

Executive Director of Hart/IRI Fuels Information Services

**MEALEY'S MTBE Conference  
Marina Del Rey, California  
May 11 – 12, 2000**

# Table of Contents

<b>Introduction.</b>	<b>....1</b>
<b>The Clean Air Act Amendments of 1990.....</b>	<b>.2</b>
<b>Marketplace and Public Policy Needs Come Together to Expand MTBE Use.....</b>	<b>3</b>
<b>EPA Touts Air Quality Benefits of MTBE and RFG.</b>	<b>.....3</b>
<b>MTBE Helps Reduce Ozone, Carbon Monoxide, Particulates, and Air Toxics.</b>	<b>.4</b>
<b>Los Angeles Has Major Success With MTBE.....</b>	<b>.5</b>
<b>MTBE Provides Phoenix With Major Air Quality Improvement.....</b>	<b>..5</b>
<b>California Deserves Both Clean Air and Clean Water.</b>	<b>5</b>
<b>Move to Ban MTBE in California Is A Major Step Backward.....</b>	<b>.6</b>
<b>Understanding the Role of ADM and Their Efforts To Ban MTBE...</b>	<b>.....6</b>
<b>FBI Raid on ADM Corporate Headquarters Changes Everything</b>	<b>7</b>
<b>The Underground Storage Tanks Issue – “The Iceberg is Clearly Behind Us”</b>	<b>8</b>
<b>Underground Storage Tank Compliance Increases, MTBE Use Decreases.</b>	<b>.9</b>
<b>The California Water Situation as it Relates to MTBE is Much Improved.</b>	<b>.9</b>
<b>The Bottom Line: MTBE Benefits Far Exceed Risks &amp; The Iceberg Has Melted...</b>	<b>11</b>
<b>Conclusions and Recommendations.....</b>	<b>1 – 13</b>

**Appendix A: *Better Understanding the Motivation and Role of ADM to Ban MTBE***

**Appendix B: *Better Understanding the Motivation and Role of ADM to Ban MTBE***

# **History of Clean, Reformulated Fuels and The Role of MTBE**

## **To Improve Air Quality in the United States**

### **Introduction**

Good morning, my name is Frederick L. Potter, founding publisher of *Fuel Reformulation* and *World Refining* magazine, and Executive Director of Hart/IRI Fuels Information Services.

I've had the distinct privilege; in fact it has been an honor to be a publisher and analyst covering the global motor fuel business since I first came to Washington back in December, 1979.

You might recall the world was a different place then. Fifty-six Americans were held hostage in Iran, and on December 26, 1979 the Soviet Union invaded Afghanistan. A lot has changed in 20 years.

I've been asked to cover a little bit of history about the use of MTBE and the Federal RFG program, and share my perspective as to how and why we are in the public policy situation on MTBE and RFG that we find ourselves in today.

As David Kortum shared with you, EPA approved MTBE for use in gasoline in 1979, and after elaborate and extensive health testing, authorized expanded use in 1988 and 89.

I might also add, it has been a real pleasure to have the opportunity to work closely on common fuel quality issues with Dave and his team at EPA over the past 20 years. There can be no question that MTBE has provided the United States with extraordinary fuel and air quality improvements over the past twenty years.

### **The Clean Air Act Amendments of 1990**

As part of the ongoing U.S. effort to substantially improve air quality, and after two consecutive U.S. Congressional terms ended in 1987 with no action taken on reauthorizing the Clean Air Act, Vice President George Bush then made his historic commitment to become the “Environmental President”. Just over a year later, in November, 1988, he was elected the 41<sup>st</sup> President of the United States

During the preceding summer of 1988, over 100 U.S. cities were in violation of the EPA and Clean Air Act standards for ozone (or smog). The summer of 1988 was one of the hottest summers on record. Both MTBE and other fuel oxygenates such as ethanol then became a very important part of Clean Air Act efforts to reduce summertime smog, and reduce emissions of carbon monoxide in the wintertime. After two years of extensive debate, the Clean Air Act Amendments passed the United States Senate 89-10, and the United States House of Representatives 401-24. On November 15, 1990, in a bipartisan White House ceremony widely attended by both industry and government leaders -- President George Bush signed the Clean Air Act Amendments into law. I was honored and pleased to be invited to participate in this historic event.

### **Marketplace and Public Policy Needs Come Together to Expand MTBE Use**

Use of MTBE and fuel ethanol increased levels in U.S. gasoline, as refiners needed both products to satisfy needs for marketplace compliance and public policy improvement.

#### **Key drivers included:**

1. New Octane demand and lead phasedown (1980-1990)
2. New State oxyfuel programs in Colorado, New Mexico, Arizona and Nevada (1987-1992), and
3. The winter Oxy-Fuel program in 39 cities (1992) and the Federal RFG program in 17 states and the District of Columbia (1995).

### **EPA Touts Air Quality Benefits of MTBE and RFG**

Ten years after the Clean Air act was signed into law, EPA has widely recognized the federal RFG program and the use of fuel oxygenates such as MTBE have exceeded all original fuel and air quality expectations.

Data collected by refiners, the U.S. Environmental Protection Agency, automakers and others clearly shows that Federal Phase I RFG, in large part because of the use of fuel oxygenates such as MTBE, has surpassed all expectations (i.e. over-complied) by over 13% for air toxics, 13% for VOC's and 8% for NOx.<sup>1</sup>

---

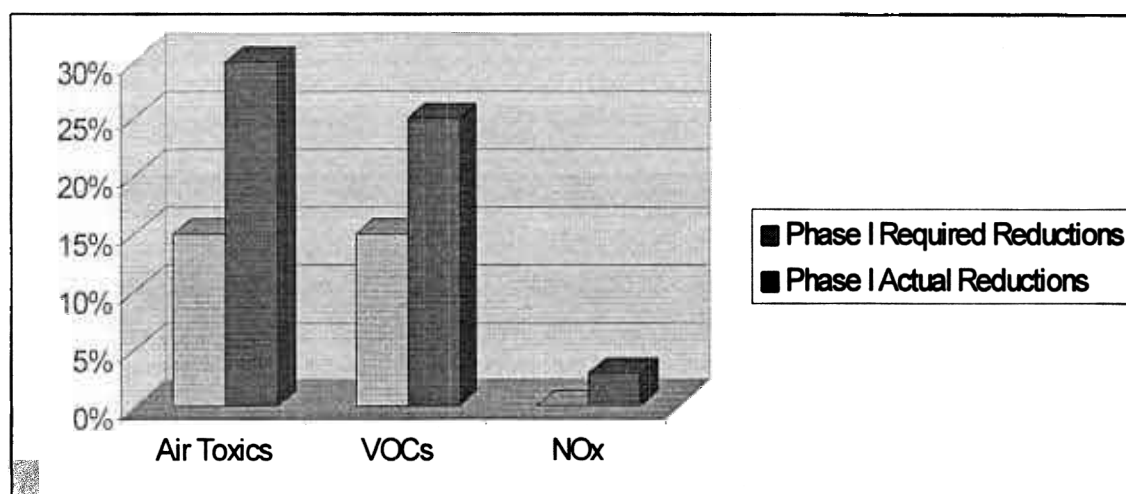
<sup>1</sup> See, e.g. Letter from Robert Perciasepe, Assistant Administrator, U.S. Environmental Protection Agency, to Angus S. King, Governor of Maine, October 30, 1998; Letter from Margo Oge, U.S. Environmental Protection Agency, Office of Mobile Sources, to Harold Reheis, Commissioner, Georgia Department of Natural Resources, December 30, 1997.

### **MTBE Helps Reduce Ozone, Carbon Monoxide, Particulates, and Air Toxics**

MTBE and other oxygenates offer beneficial gasoline blending properties such as high octane and low distillation temperatures, that would not normally occur without their use. Because of their extremely low atmospheric reactivity, and because oxygenates reduce the amount of CO in the atmosphere, oxygenates such as MTBE help reduce ozone formation. Available studies show that the use of oxygenates also substantially reduces primary PM – by as much as 25 – 30%.

EPA's Blue Ribbon Panel on Oxygenates concluded that the "Reformulated Gasoline Program established in the Clean Air Act Amendments of 1990, and implemented in 1995, has provided substantial reductions in the emissions of a number of air pollutants from motor vehicles, most notably volatile organic compounds (precursors of ozone), carbon monoxide, and mobile-source air toxics (benzene, 1,3-butadiene, and others), in most cases resulting in emissions reductions that exceed those required by law."

### **Federal RFG (with MTBE/ethanol) Emissions Improvement**



Source: US EPA Data and Report by National Reformulated Gasoline Hotline



The bottom line is that the President, the EPA, & the Congress were right in 1990, and it shouldn't surprise you that MTBE use in gasoline is still right today

### **Los Angeles Has Major Success With MTBE**

In the summer of 1997, Los Angeles recorded the cleanest air quality record in over 50 years. Peak ozone violations were reduced substantially, and toxics such benzene (a known human carcinogen) were reduced by approximately 50%. MTBE was in nearly (over 95%) every gallon of gasoline sold

### **MTBE Provides Phoenix With Major Air Quality Improvement**

During the same year, Federal RFG, primarily blended with MTBE, was introduced for the first time in Phoenix. CARB gasoline was allowed as a substitute. MTBE was the oxygenate of choice, and Phoenix, for the first in 10 years, did not record a single summertime ozone violation. Improved fuels, almost all which included MTBE, have been a major part of the air quality success enjoyed in both Los Angeles and Phoenix. Most other cities can report the same air quality success stories

### **California Deserves Both Clean Air and Clean Water**

California and all of the U.S. deserve both clean air and clean water. We can deliver both -- without banning or phasing-out MTBE -- either in California or the U.S. nationwide. I've attached both my recent articles on these subjects published in *World Refining* in March 99, and July/August 99 (see Appendix A). I also wrote California EPA Secretary

Winston Hickox on March 23, 1999. My letter to Secretary Hickox and it's Attachments are included in Appendix B.

### **Move to Ban MTBE in California Is A Major Step Backward**

Sadly, the new CARB Phase III regulations, implementing the California Governor's ban on MTBE, allow increases in aromatics, provide opportunity for the co-mingling effect of ethanol blends, and may actually do nothing to improve air quality compared to the in-use CARB II Fuels which used approximately 11% MTBE

In fact, it is possible that air quality in California could actually get worse, especially when the impact on off-road emissions is considered. The cost to California motorists of the new CARB III fuels without MTBE is estimated to be between 4-10 cents per gallon more, or between \$500 million and \$1.4 Billion more per year! Unfortunately, due to politics, the recent CARB III fuel property changes adopted in December 1999 have not met good public policy standards

### **Understanding the Role of ADM and Their Efforts To Ban MTBE**

How could this possibly happen? How did it happen? Well, it is impossible to answer this question without first examining and then understanding the economic stake and active role of the Archer Daniel's Midland Company (ADM), and their historic effort to ban ethanol's primary fuel competitor, MTBE. ADM's efforts to go back to the mid - 1980's. Peter Garrett, you'll remember. In 1987, ADM Chairman, Dwayne Andreas spoke before National Corn Growers annual convention. In that speech, he laid out

ADM's corporate strategy, and shared his negative thoughts on MTBE. In his Keynote Remarks, he reminded the corn growers to "Keep your friends close, but your enemies closer".

A few years later, Mr. Andreas put his words into action when ADM purchased nearly 1/3 of all the outstanding shares of ARCO Chemical stock. ARCO Chemical was the largest producer of MTBE. ADM wanted ARCO Chemical to make ETBE instead of MTBE. A successful technical ETBE trial run was completed in 1991, but commercial success was less than original expectations. ADM corporate executives became divided on the ETBE issue. What Mr. Andreas had suggested in *Forbes Magazine*, that soon ARCO Chemical would be one of ADM's biggest customers, never came to pass.

### **FBI Raid on ADM Headquarters Changes Everything**

In 1995 the FBI raided ADM corporate headquarters. Their ETBE efforts ended. When the dust would settle, ADM would conclude it would be cheaper, easier to ban MTBE than to try to make ETBE work. For the record, ADM paid the largest price fixing and Antitrust fine in the history of United States. ADM settled the case, paying a fine of \$100 million dollars for corporate antitrust violations for lysine and other products.

Am I wrong about ADM's efforts to ban MTBE? The evidence shows I'm right. Two years later, in December 1997, the fingerprints of ADM's Corporate Executives turned up again as their own hand writing marked up charges in the press release for the office of U.S. Senator Barbara Boxer. ADM, and the organizations they contribute to, encouraged

Senator Boxer to hold hearings on ethanol's competitor, MTBE. ADM, directly and indirectly, paid Dean Reed and *Fuels for the Future* to spread negative and exaggerated information to the public and the press about MTBE. Those efforts have continued. In late February, 1999, just prior to the California Governor's planned scheduled date to announce his decision as to whether MTBE should be banned -- and after \$135,000 in ( 3 directly identified ADM campaign contributions to the California Governor -- ADM executive Marty Andreas was quoted in the Decatur, Illinois newspaper calling MTBE "the worst environmental problem in the history of this country". Interesting timing.

A copy of ADM's markup of the Senator Boxer press release is included in the Appendix, and was attached to my letter to Winston Hickox in March of 1999. ADM remains the largest producer and seller of ethanol in the United States, supplying well over 50% of all the ethanol sold to the U.S. refining industry

Now, let's look at the facts -- the real historical facts about underground storage tanks

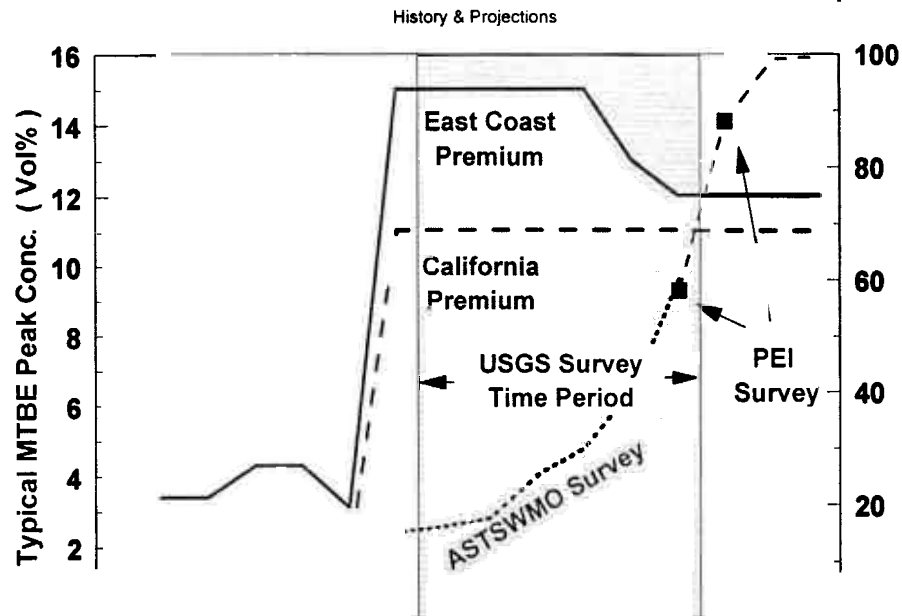
### **The Underground Storage Tanks Issue – "The Iceberg is Clearly Behind Us"**

It was all EPA and the environmental community could do to get Underground Storage Tank legislation through Congress in the 1980s. Republicans and Democrats alike were concerned about small business and the impact of 1984 UST regulations.

Let's look at the historical facts about UST regulation compliance, and reduced MTBE use. This trend is clearly our friend. The UST compliance and MTBE use trends clearly show the iceberg is not in front of us, but well behind us.

## Underground Storage Tank Compliance Increases, MTBE Use Decreases

### Peak MTBE Concentration in Premium Vs UST % Compliance



Drinking Water Survey conducted before most UST's in compliance  
"Lag time" should also be added for leak to migrate from source

Assoc. of State & Terr. Solid Waste Mgmt Officials, March 1999, Petroleum Equip. Institute, 1<sup>st</sup> Half 1999

## The California Water Situation as it Relates to MTBE is Much Improved

Preliminary review of California Department of Health Services data on MTBE detects in ground water "suggests that despite the negative publicity surrounding MTBE and potential aesthetic issues, MTBE in drinking water should not pose a significant public health hazard in California based on what is currently known about MTBE toxicity and exposures." <sup>2</sup>

<sup>2</sup> Williams, Pamela; Scott, Paul; Hays, Sean; Paustenbach, M. S. and Dennis; Soil Sediment & Groundwater Magazine, April/May 2000, page 63

More importantly, as the level of sampling has increased dramatically, our understanding of the nature of the threat of MTBE contamination to California's drinking water has been greatly enhanced. More recent evaluations based on data from 1995 to 1999 clearly show that the extent of California's Drinking Water exposure to MTBE is declining:

- In 1995, only 17 drinking sources were sampled for MTBE, with 3.4% reporting levels above the minimum analytical limit of detection.
- Approximately 2% of the sampled drinking water sources in California were found to have detectable levels of MTBE in 1999 and about 98% of all sampled drinking water sources in California had no discernible levels of MTBE from 1996 to 1999.
- Average MTBE concentrations for sampled drinking water were the highest in 1995, with an estimated range of 2.6 ppb to 7.4 ppb, depending on the assumed value for non-detects. These values have declined steadily from 1995 to 1999, with the corresponding values ranging from 0.14 ppb to 4.3 ppb in 1999.
- When we focus on the subset of samples where MTBE was detected, the average level in those samples has declined from over 60 ppb in 1995-96 to approximately 10 ppb in 1998-99.

This suggests that the limited number of sources sampled in 1995 were those suspected of MTBE contamination, and that state-wide MTBE contamination of drinking water has not increased over time

### **The Bottom Line: MTBE Benefits Far Exceed Risks & The Iceberg Has Melted**

The air and fuel quality benefits of MTBE continue to more than offset the ground water challenges. This is not the “tip of the iceberg” – and the major MTBE water concerns originally raised in California are long behind us. And we can improve the efforts to enforce existing underground storage tank laws and regulations, including doing a better job on early detection. Gasoline, or any motor fuel, with or without MTBE, should not be leaking from pipelines or underground storage tanks.

### **Conclusions and Recommendations:**

Today the real issue of MTBE and RFG is fixing the leaking tanks. We should also allow US refiners the flexibility to opt-out of Federal RFG if they produce a better fuel (i.e. CARB II fuel), and provide additional short term MTBE use flexibility in the worst areas where underground storage tank leaks, left undetected or unfixed, have been a major concern. This would include Glenville, CA and South Lake Tahoe, among others.

As public policy baseline, the U.S. should maintain the fuel oxygen standard, and allow refiners and regions of the country the equal opportunity to opt-in, or opt-out of the RFG program if they can produce or supply a better fuel (i.e., CARB II).

As American citizens, it is all of our obligation to contribute where can to make good public policy. We did a terrific job of making good public policy when the Clean Air Act

Amendments passed the United States Senate 89-10, the US House of Representatives 401-24, and the President signed the Clean Air Act Amendments into law on November 15<sup>th</sup> 1990.

MTBE has been the United States' clean air workhorse -- the fuel compound actually put in U.S. gasoline to provide substantial fuel and air quality improvements.

What Role will all of us play in the final outcome? A positive one I hope -- based on sound science, good economics, thoughtful public policy decision making, and without providing an economic windfall or monopoly to any one company uniquely orchestrating to benefit from a ban on MTBE. Again, the company with the most to benefit is ADM. If MTBE is banned, we estimate ADM will increase sales revenue by about \$200 million dollars a year. Most refiners would have to buy from ADM -- raising gasoline prices. Everyone else, customers, automakers, refiners, and the environment will pay if MTBE is banned. This would be a great injustice.



As I conclude my remarks and think about the role of MTBE, I somehow am reminded about what one of our great Presidents, Theodore Roosevelt once said.

**IT'S NOT THE CRITIC  
WHO COUNTS**

**“It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done better.”**

**“The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood... who spends himself in a worthy cause. Who, at the best, knows in the end the triumphs of high achievement and who, at the worst, if he fails, at least does so while daring greatly, so that his place in history shall never be with those cold and timid souls who know neither victory nor defeat.”**

MTBE has been America's clean air workhorse, replacing lead, reducing winter time carbon monoxide, summer time ozone, and year round emissions of air toxics and particulates. Especially now, as we reach full compliance with existing underground storage tanks regulations, and improve efforts at early detection and prompt remediation, MTBE should not be banned or severely limited for use as a motor fuel compound.

Thank you for the opportunity to share this historical perspective, and provide some positive recommendations for a thoughtful outcome to this debate. extend all of you every good wish on a successful conference.

Thank you very much.

# **Appendix A**

## **History of Clean, Reformulated Fuels and the Role of MTBE to Improve Air Quality in the United States**

*Better Understanding the Economic Motivation and Historical Efforts of the Archer  
Daniels Midland Company to Ban Fuel Ethanol's Primary Competitor, MTBE*

### **Opening Remarks of Frederick L. Potter**

Executive Director of Hart/IRI Fuels Information Services

**MEALEY'S MTBE Conference  
Marina Del Rey, California  
May 11 – 12, 2000**



FREDERICK L. POTTER  
Executive Director

# Good Politics in Iowa Won't Make Good Policy in Washington

**T**he assault on the use of MTBE in California has been the product of a well financed, organized, negative media and public profile campaign orchestrated by Archer Daniels Midland's top executives, and the resulting hysteria created by ADM and conservative radio talk show hosts.

Over time (1996 to March of 1999), this "created hysteria" (and the inability to promptly solve the Santa Monica tank and pipeline leak problem) wore out all of California's rational thinking. Even the oil industry, in the end, grew to accept the California Governor's "ban on MTBE". The oil industry's final line of defense melted as concerns about liabilities from leaking tanks, and the resulting necessary clean up costs grew too great.

In the previous August 1998 to February 1999 election cycle, Governor Gray Davis accepted a minimum of \$135,000 in campaign contributions from ADM. In late February 1999, Senior Vice-President, Marty Andreas, called MTBE "the worst environmental problem in the history of this country." Really Marty? Worse than DDT, acid rain, and worse than the Midwest fertilizer and pesticide runoff now polluting tributaries and the Mississippi Delta? I doubt it.

But Marty's quote, ADM's campaign contributions, and the negative public profile image created against MTBE by ADM's support group *Fuels for the Future*, run by Dean Reed, can make good politics for some elected officials.

Remember, back in 1990 ethanol was supposed to be the primary oxygenate used in reformulated gasoline (RFG). Well, because the economics were more favorable, MTBE became the oxygenate of choice for most refiners beginning in 1995, and ADM's original business expectations were not fulfilled.

Meeting ADM's business objective has apparently made good politics for Governor Gray Davis, and seems to be doing so for California Senators, Barbara Boxer and Dianne Feinstein—all now working to "ban MTBE." It is a simple message—far easier and less complicated than fixing the leaking underground storage tanks, or understanding the air quality consequences of increasing the use of aromatics, or co-mingling concerns raised by increasing ethanol use in summertime RFG. Should ethanol use be increased in conventional gasoline, or wintertime RFG? Absolutely! But MTBE should not be banned or regulated out of gasoline.

## Fixing the Leaking Tanks is the Real Issue

Remember, by year-end 1997 only 58% of California's regulated underground storage tanks were certified as in compliance. Projections for this year, both in the state of California and nationwide, are that 90% of the tanks will be in compliance. What this says, is the groundwater contamination problem caused by leaking tanks is a lot further behind us than it is in front of us. Coupled with new early detection and prompt remediation requirements already in place, only a tiny fraction of the gasoline, ethanol and MTBE that was leaking into groundwater supplies in the past will leak in the future. On the environmental and health issues, all the facts indicate that MTBE is as safe or safer than gasoline, and it helps to substantially improve our nation's fuel and air quality.

But ADM has another political freight train running now. Iowa. And now that Governor Davis has issued his executive order to ban MTBE, and Iowa has limited MTBE use to 2 vol.%, ADM's focus now turns to Washington.

The Blue Ribbon Panel EPA has established looks like it will recommend that MTBE use should be "reduced substantially." The California representatives on the Blue Ribbon Panel, on balance, are charged with instituting the Governor's executive order. So the fire ADM started in California, including the role they played in "spinning the press" after the Boxer hearings in December of 1997, has now spread to the heart of Washington. Historically, outside the states of Illinois and Iowa, the nation's capital remains ADM's political home turf—despite the fact ADM was recently convicted of price fixing, and paid a \$100 million fine to the U.S. Justice Department—the largest price fixing fine in the history of the United States.

## Good Public Policy Requires Strong Executive Leadership

In this election cycle, one must wonder if ADM will be successful again, or whether Washington can stand up and do the right thing. Almost without full comprehension, some parts of Washington seem ready to regulate the use of or ban MTBE. Remember, MTBE has been America's clean air workhorse, playing a major role in the country's effort to improve fuel and air quality through the nation's lead phasedown, oxygenated fuels and reformulated gasoline programs.

If MTBE use is reduced from current levels or banned, ADM will have been successful in "banning its competition." As a result, gasoline prices will rise and air quality will get worse—and ADM will pick up about \$200 million more in annual sales revenue. Let's hope that all those who helped ADM along the way can still hold their heads high. This time around, ADM's good politics in Iowa won't make good policy in Washington. ■



FREDERICK L. POTTER  
Executive Director

# California Deserves Clean Air & Water

I have been involved in the U.S. and global development of cleaner burning fuels as a motor fuel analyst, publisher and public policy observer in Washington for the past 20 years. On Feb. 24 and 25, the California Environmental Protection Agency took comments on the UCAL Davis study on MTBE and related ground water contamination issues. I had the following to say.

- The leaking underground storage tank problem, which persists in the state of California and the groundwater contamination from motor fuel components, including MTBE, must be solved in the immediate time frame. California citizens deserve no less.
- Let's make sure we all understand the background and public policy rationale for the foundation of the Federal RFG Program, and the important role that the Federal RFG Program and California's RFG — each which includes a major role for MTBE, ethanol and other fuel oxygenates — have played in bringing air quality improvement across the U.S., and many other parts of the world. Without California's leadership, and the lead of the U.S., Europe would not be embarking on its fuel quality improvement program for 2000 and 2005. Lead is being reduced all over the world, and cleaner fuels, lower aromatic, lower sulphur gasolines are being introduced in Asia, South America, Mexico and Canada. The pace and magnitude of this change would be substantially slowed without California's leadership and the proven progress made by its leading refiners. Arco Corp. deserves particular credit. And it's worth noting that this is the 10-year anniversary of Arco's EC-1 Clean Burning Gasoline.
- Now, is not the time to ban MTBE before a thoughtful understanding of the

consequences is fully understood — although MTBE use can be reduced.

## Facts:

- MTBE and other clean burning fuel oxygenates are used in every gallon of gasoline sold in Los Angeles, California.
- Last summer, Los Angeles recorded the cleanest air in 50 years. MTBE was in nearly every gallon sold.
- Federal law requires the use of clean burning oxygenates in Federal RFG including three cities in California.
- In California's neighboring state, Arizona, an all hydrocarbon, low Rvp fuel was used for three continuous summers in Phoenix. Air quality got much worse. In 1997, Federal RFG and California RFG (including the use of MTBE) replaced this nearly all hydrocarbon fuel. As a result, Federal RFG (with MTBE) assisted Phoenix in meeting its air quality standards for the first time in ten years!

Exactly how does MTBE and other oxygenates provide these benefits? And why is Washington so deeply interested in participating in the California decision-making process on this subject?

- When clean burning MTBE is used in RFG, approximately 10% less crude oil is used to make gasoline. The U.S. Congress and other national policy makers clearly understand that MTBE and other clean burning oxygenates like ethanol can lessen U.S. dependence on foreign oil, and reduce the amount of crude oil used at U.S. refineries — thereby also saving stationary source emissions of VOC's, Nox and air toxics. This secondary effect has also been a great benefit to the L.A. basin, and still serves as the basic public policy rationale to the Reformulated Gasoline Amendments to the 1990 Clean Air Act.
- It is precisely for these public policy

reasons why the much discussed Bilbray/Feinstein Legislation hasn't simply sailed through the Congress. It is also why national leaders such as Senator Tom Daschle, EPA Administrator Carol Browner, and U.S. DOE Secretary Bill Richardson, have great difficulty in supporting initiatives that simply propose to ban or phaseout these proven benefits.

- One such proposal has been offered to Governor Gray Davis by U.S. Senator Tom Daschle. He is offering an immediate adoption of the Bilbray/Feinstein Legislation for a two-year period to provide immediate relief to the required amount of MTBE used by California refiners.
- Benzene in gasoline is a known human carcinogen. Recent studies continue to conclude MTBE is not a serious cancer risk to humans. If MTBE is taken out of gasoline, most refiners will increase crude oil processing operations, which results in higher aromatic content gasolines. These aromatics combust into benzene in tailpipe exhaust.
- Higher aromatics will contribute to increase combustion chamber deposits, higher NO<sub>x</sub>, more reactive and ozone forming VOC's, and increased CO<sub>2</sub> and PM 2.5 emissions.

## Back to the water issue:

- According to the California State Audit Report, only 52% of the underground storage tanks are in compliance with the Federal standard of December 1998.
- If pipeline, storage and retail tanks are fixed, MTBE will not leak.

## Conclusion

If we fix the tanks, we will fix the problem. Then, California can have not only the world's best 21st Century air and fuel quality programs, but a fuel transportation and storage program that equally serves its citizens in the same quality manner. ■

# **Appendix B**

## **History of Clean, Reformulated Fuels and the Role of MTBE to Improve Air Quality in the United States**

*Better Understanding the Economic Motivation and Historical Efforts of the Archer  
Daniels Midland Company to Ban Fuel Ethanol's Primary Competitor, MTBE*

### **Opening Remarks of Frederick L. Potter**

Executive Director of Hart/IRI Fuels Information Services

**MEALEY'S MTBE Conference  
Marina Del Rey, California  
May 11 – 12, 2000**



INFORMATION RESOURCES, INC.

Frederick L. Potter  
President

ADVISORY BOARD

Lodwick M. Cook  
Worldwide Petroleum Business

Joseph M. Colucci  
Automotive Fuels

Jim Kinnear  
Worldwide Petroleum Business

Worldwide Petroleum Business

Ken Dickerson  
Petroleum & Quality Fuels

Arthur Suchanek  
Worldwide Refining Technology

Calvin Hodge  
Petroleum Refining

C. Boyden Gray  
Federal & Congressional Affairs

Howard Buffett  
Agriculture, Ethanol & ETBE

William G. Rosenberg  
Environment & Fuels Policy

Francis H. Palmer  
International Fuels Issues

Yayashi  
Pacific Rim Fuels Issues

George H. Unzelman  
Octane & Refined Products

Herbert W. Bruch  
Senior Refining Advisor

Nancy D. Yamaguchi, Ph.D.  
International Motor Fuels

William W. Haynes  
Petroleum Finance & Management

Chandra Prakash  
Clean Fuels & Additives

Alan Smith  
Automotive Fuels

William C. Holmberg  
Environment & Sustainable Energy

Plinio Mario Nastari  
BioMass & Alternative Fuels

George Rose  
Fuel Oxygenates

Pierre Latour  
Information & Management Technologies

March 23, 1999

The Honorable Winston H. Hickox  
Secretary for Environmental Protection  
California EPA  
555 Capitol Mall, Suite 525  
Sacramento, California 95814

Enclosures Delivered Via: Federal Express

Dear Secretary Hickox

As a follow up to our personal conversations in Sacramento on February 23 and 24, and my following conversations with Alan Lloyd, enclosed is the facsimile from Dean Reed and *Fuels for the Future* to senior ADM executives, Dwayne Andreas, Marty Andreas, and Allan Andreas. The material speaks for itself -- and shows that the demise of MTBE, especially in California, has long been planned, orchestrated, and funded by ADM's senior executives.

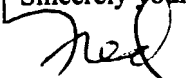
As the "supplier of last resort" to the state of California, ADM commands 70-80% of the available merchant gallons of ethanol which can be reasonably delivered to the state of California. Based upon the expectant 25-30 cents per gallon ethanol price increase invoked by a California ban or phasedown of MTBE, this is a potential \$200 million per year sales windfall to ADM. This is likely to happen because an unsuspecting and vulnerable population was told over and over again about unfounded scare stories designed to remove MTBE from commerce -- a defacto ban orchestrated by a competitor with \$200 million annually to gain, or a potential \$1 billion sales increase over five years. Air quality will get worse in California without MTBE. Further, already tight California gasoline supplies will be reduced directly by the amount of MTBE phased-out, as ethanol used to replace MTBE requires an equal amount of pentanes to be eliminated from gasoline at the refinery (i.e., 11 vol.% MTBE out = 11 vol. % gasoline supply constraint). The resulting gasoline price increase in California will be overwhelming.

As you may know, I've been a lead analyst in the fuels business and a public policy observer in Washington for 20 years now Mr. Secretary. Over the years I have received consulting monies from ADM, from the oil companies, and from MTBE producers. I am and have always been an ethanol supporter -- but this ADM *Fuels for the Future* thing is the worst I've seen. It is a clear injustice to California citizens, to air quality, to California refiners, and to the state of California. I can't believe the California Governor has the true story here.

I just thought you would want to be aware of the terrific injustice almost nearly completed by ADM. For a company that has done many good things, in soybeans, and better, healthier foods, to the expanded poultry production in the former Soviet Union -- this really crosses the line.

I am so troubled about this Mr. Secretary, that I feel obligated to copy this same message to other interested and impacted parties in the state of California, the U.S. Congress, and the U.S. EPA.

Sincerely yours,

  
Frederick L. Potter

cc: U.S. EPA, U.S. Congress, State of California. and the Environmental Community

# FAX

from the T. Dean Reed Co.

Date 12/10/97

Number of pages including cover sheet: 3

TO: Dwayne Andrews  
Marty Andrews  
Allen Andrews

FROM: Dean Reed  
c/o T. Dean Reed Company  
1155 15th Street N.W., Suite 1003  
Washington, D.C. 20005

Phone  
Fax Phone

Phone 202/223-3532  
Fax Phone 202/223-5609

CC:

REMARKS: ☐ Urgent ☐ For your review ☐ Reply ASAP ☐ Please Comment  
FYI

FACTS

SEE INSERT

5

EPA IS ASKED TO USE EMERGENCY POWERS AGAINST MTBE;  
'WE'VE GOT TO STOP PROBLEM NOW,' SEN. BOXER SAYS;  
'ASTRONOMICAL' CLEAN-UP COSTS IN CALIFORNIA

WASHINGTON, Dec. 10, 1997 -- The U.S.

~~Environmental Protection Agency~~ Environmental Protection Agency has been asked to exercise emergency powers and ban use of MTBE, the controversial gasoline additive, ~~that has leaked into~~ *that has leaked into* ~~groundwater~~ *groundwater*.

Sen. Barbara Boxer (D-Calif.), at a ~~special~~ special Senate committee hearing in ~~Sacramento~~ *Sacramento* California this week, called on EPA Administrator Carol Browner to take ~~immediate~~ *immediate* action on MTBE, ~~which~~ *which* has contaminated drinking ~~water~~ *water* in California and has been the subject of health concerns across the nation.

EPA officials were said to be studying the agency's legal authority to determine whether MTBE can be banned under its regulatory powers.

The Los Angeles Times quoted Sen. Boxer as saying that Browner does have that ~~authority~~ *authority*: "I really think she ~~immediately~~ *immediately* ought to consider doing that right now," Boxer said. *USEC*

Sen. Boxer ~~also~~ *also* said she supports ~~legislation~~ *legislation* proposed in Congress by R U.S. Rep. Brian ~~Bilbray~~ *Bilbray* (R-Calif.), which was endorsed earlier by California's senior senator, Sen. ~~Dianne Feinstein~~ *Dianne Feinstein* (D-Calif.). Bilbray has introduced a bill in the House of Representatives that would ~~effectively~~ *effectively* permit California to be exempted from federal requirements for oxygenates in gasoline, intended to ~~make~~ *make* clean the air.

MTBE is the oxygenate used almost exclusively in California, where oil companies have fought to keep ethanol, the competing oxygenate made from corn and other sources, ~~from~~ *from* being used in California. Ethanol is ~~permitted~~ *permitted* to be used in almost all other states in the U.S., including Alaska, where MTBE ~~was~~ *was* ~~banned~~ *banned* ~~and ethanol was~~ *and ethanol was* ~~permitted~~ *permitted*.

A long list of witnesses testifying at Sen. Boxer's hearing in Sacramento Tuesday denounced the use of MTBE. At one point, ~~Sen. Boxer~~ *Sen. Boxer*



~~Sen. Boxer~~ pronounced sniffed a container of MTBE and pronounced it "vile."

~~A Representative of~~ California water providers told Sen. Boxer the public may lose ~~confidence~~ confidence in the safety of ~~drinking water~~ drinking water if action is not taken against MTBE. Stephen Hall, executive director of the ~~Association of California Water Agencies~~ Association of California Water Agencies, said the cost of cleaning up ~~contaminated~~ water wells contaminated by MTBE can be "astronomical."

Meanwhile, representatives of the ~~Environmental~~ Environmental Protection Agency said they are ~~releasing~~ releasing a ~~national~~ national consumer advisory alerting water ~~supply~~ agencies that MTBE should be limited to no more than 20 to 40 ~~parts per billion~~ parts per billion in water. At the ~~Boxer~~ Boxer hearing, recommendations were made ~~that~~ that MTBE not be permitted at levels higher than five parts per billion.

Insert P. 1 -

XXXXXX "We have enough information," ~~the~~ ~~XXXXXX~~ ~~XXXXXX~~ Sen. Boxer said, according to the San Francisco ~~Chronicle~~ Chronicle. ~~XXXXXX~~ "We've got to stop the problem now."

## 7. P. 2-44: MTBE AND OTHER PETROLEUM DERIVATIVES IN DRINKING WATER

These compounds, which are used in gasoline and other petroleum products, are found in drinking water in many areas. MTBE is used in gasoline and other sources, from being used in California. MTBE is permitted in almost all other states in the U.S., including Alaska, where MTBE has been banned and ethanol used exclusively.

A long list of witnesses testifying at Sen. Boxer's hearing in Sacramento Tuesday denounced the use of MTBE. At one point, Sen. Boxer said a canister of MTBE and pronounced it "vile."

A representative of California water providers told Sen. Boxer the public may lose confidence in the safety of drinking water if action is not taken against MTBE. Stephen Hall, executive director of the Association of California Water Agencies, said the costs of cleaning up water wells contaminated by MTBE would be "astronomical."

Meanwhile, representatives of the U.S. Environmental Protection Agency said

that the agency is working to develop a federal drinking water standard for MTBE.

At the hearing, recommendations were made that MTBE not be permitted at levels higher than

five parts per billion.

Article 3 of 9

**EPA Is Asked to Use Emergency Powers Against MTBE; 'We've Got to Stop Problem Now,' Sen. Boxer Says; 'Astronomical' Clean-Up Costs in California Expected**

12/10/97

PR Newswire

(Copyright (c) 1997, PR Newswire)

WASHINGTON, Dec. 10 /PRNewswire/ - The U.S. Environmental Protection Agency has been asked to exercise emergency powers and ban use of MTBE, the controversial gasoline additive that has leaked into water supplies.

Sen. Barbara Boxer (D-Calif.), at a special Senate committee hearing in California this week, called on EPA Administrator Carol Browner to take immediate action against MTBE, which has contaminated drinking water in California and has become the subject of health concerns across the nation.

EPA officials were said to be studying the agency's legal authority to determine whether MTBE can be banned under its regulatory powers.

The Los Angeles Times quoted Sen. Boxer as saying that Browner does have that authority: "I really think she ought to consider doing that right now," Boxer said.

"We have enough information," Sen. Boxer said, according to the San Francisco Chronicle. "We've got to stop the problem now."

Sen. Boxer said she supports legislation proposed in Congress by U.S. Rep. Brian Bilbray (R-Calif.), which was endorsed earlier by California's senior senator, Sen. Dianne Feinstein (D-Calif.). Bilbray has introduced a bill in the House of Representatives that would permit California to be exempted from federal requirements for oxygenates in gasoline, intended to clean the air.

MTBE, or methyl tertiary butyl ether, is the oxygenate used almost exclusively in California, where oil companies have fought to keep ethanol, the competing oxygenate made from corn and other sources, from being used in California. Ethanol is permitted in almost all other states in the U.S., including Alaska, where MTBE has been banned and ethanol used exclusively.

A long list of witnesses testifying at Sen. Boxer's hearing in Sacramento Tuesday denounced the use of MTBE. At one point, Sen. Boxer sniffed a container of water with MTBE and pronounced it "vile."

A representative of California water providers told Sen. Boxer the public may lose confidence in the safety of drinking water if action is not taken against MTBE. Stephen Hall, executive director of the Association of California Water Agencies, said the costs of cleaning up water wells contaminated by MTBE can be "astronomical."

Meanwhile, representatives of the U.S. Environmental Protection Agency said they are releasing a national consumer advisory alerting water agencies that MTBE should be limited to no more than 20 to 40 parts per billion in water. At the Boxer hearing, recommendations were made that MTBE not be permitted at levels higher than five parts per billion.

/CONTACT: Down Road of Fuels For The Future, 202-223-3532/ 12:36 EST

Copyright © 1997 Dow Jones & Company, Inc. All Rights Reserved.



## "Stealth Lobby Drives Fuel Additive War"

By SARA FRITZ, DAN MORAIN, Los Angeles Times Staff Writers  
Monday, June 16, 1997

WASHINGTON--In a high-stakes market war between the ethanol and petroleum industries, Bob O'Rourke is playing a role that makes sense only in the shadowy world of influence peddling: He is an undercover publicist.

While most promoters try to maintain as high a profile as possible, O'Rourke admits only when pressed that he is a "public affairs consultant" for the ethanol industry. He also acknowledges that he sometimes gives advice to a controversial citizens group called Oxybusters, which is campaigning to ban a petroleum-based additive that competes with ethanol to make gasoline burn cleaner.

But O'Rourke refuses to disclose the name of his employer. And he blames covert consultants in the opposing camp for trying to create the impression that he is quietly working on behalf of the nation's most controversial ethanol producer, Archer Daniels Midland Co.

O'Rourke's struggle to preserve his anonymity offers a rare glimpse into the little-known but widely practiced art of undercover lobbying, a trade pursued by public relations specialists hired by big corporations to secretly influence the news media, sponsor grass-roots activities and generate favorable scientific reports.

It also serves as a cautionary tale for California consumers, who are being bombarded through radio talk shows and news outlets with information challenging the safety of the petroleum additive, which is called MTBE. Insiders say some of the controversy is being generated by industry-paid operatives, such as O'Rourke, whose allegiances are not always clear.

### Stakes High for Both Industries

Although the byplay in this drama is sometimes confusing, O'Rourke observed: "It's pretty clear that what is going on here is a fierce battle for market share. On one side is MTBE and the petroleum industry; on the other side is the ethanol industry." The stakes in this cloak-and-dagger influence war are extremely high.

In California and other states where MTBE is added to gasoline to reduce air pollution, opponents are campaigning to ban the additive on grounds that it merely transfers the environmental degradation to the ground, where it threatens the safety of drinking water. MTBE makers believe this campaign is designed to destroy their \$3-billion-a-year industry.

At the same time, makers of the ethanol industry's competing gas additive, ETBE, which is not as widely used as MTBE, are struggling to salvage a federal tax subsidy that is under assault in Congress. Since 1979, it is estimated, the subsidy has meant \$7 billion to American agribusiness.

Technically, subsidies for ethanol production and the safety of MTBE are not directly linked by any single legislative proposal. But industry analysts see the attack on MTBE as an effort by the ethanol makers to preserve their tax advantages and expand their market.

As Joe Piernock, spokesman for Arco Chemical Co., which produces about 14% of the world's MTBE supply, observed: "If the unthinkable happens and that bill in California gets passed and MTBE is banned, what other oxygenate is there? Ethanol."

While combatants on these issues are heavily involved in traditional lobbying efforts--meeting regularly with members of Congress and state legislators--they have also adopted more roundabout tactics, in large part to counter what they see as their lack of popularity among consumers.

For executives in the petroleum industry, which has long been portrayed by critics as a profit-hungry enemy of the consumer, adverse publicity is nothing new. But as insiders see it, the ethanol industry's public relations problems are of more recent origin--aggravated by recent allegations of price-fixing leveled against the industry's giant, Archer-Daniels-Midland.

Essentially, the petroleum industry has set out to ally itself with the clean-air lobby while the ethanol side appears to be working with so-called chemical-sensitivity activists, concerned about adverse effects of MTBE on public health, and conservative radio talk-show listeners, who tend to distrust their government.

Experts say the decision by the oil and ethanol industries to adopt stealth tactics and ally themselves with more sympathetic causes also reflects a dramatic change in the business of corporate lobbying. It is now standard for unpopular special interests to recruit popular organizations to help fight their causes or to create front groups with positive-sounding names.

Piernock observes that these tactics are what corporate America must do to defend itself in the current political climate.

By all accounts, each industry has corralled an army of professional publicists, scientists, activist groups, radio talk-show hosts and legislators to argue its case. And while they seem to engage in similar activities, those on the MTBE side seem more forthcoming about their industry ties.

Eric Dezenhall, a partner in Nichols-Dezenhall Communications Management Group of Washington, which is engaged in pro-MTBE public relations, says he is proud to admit he is working under contract for Arco Chemical Co. "It matters who pays you; we feel we have got to disclose who our clients are," Dezenhall said.

But like O'Rourke, ethanol industry promoters seem reluctant to reveal the source of their income. "I really can't talk about any relationships with clients," O'Rourke said.

Dean Reed, another Washington publicist who regularly churns out pro-ethanol-subsidy press releases for a group called Fuels for the Future, also refuses to identify his employer. He admits, however, Fuels for the Future is not a citizens group but the title of what he calls his ethanol project.

Among scientists, the situation is similar. By and large, scientists who promote MTBE by testifying at legislative hearings admit being paid by the oil industry while those who criticize the additive insist that they are independent of the ethanol industry.

The most prominent scientists opposing MTBE, Peter M. Joseph, professor of radiologic physics at the University of Pennsylvania, and Myron A. Mehlman, the ex-toxicologist for Mobil Corp. who is suing his former employer--staunchly deny receiving any financial support from the ethanol industry.

Joseph says he suffers from headaches and other adverse health effects of MTBE, and Mehlman seems to be motivated primarily by what an industry source describes as "a one-man vendetta against the oil industry." But oil executives say the ethanol industry is footing the bill for some of the men's travel expenses.

In addition, Mehlman frequently identifies himself as an adjunct professor at Robert Wood Johnson Medical School in New Jersey, even though school officials say he no longer teaches there.

Even on the oil industry side, disclosure is not always complete. John Mennear, retired professor of toxicology at the Campbell University School of Pharmacy in Cary, N.C., is paid by Arco for his advocacy work. Yet, Mennear has written several letters to newspapers in New Jersey identifying himself only as a retired toxicologist.

Mennear, who also has written papers playing down the environmental risks of secondhand cigarette smoke, says he is motivated by science, not greed. "Oxybusters probably would say about me that 'Mennear would do anything for a buck,' but that's not true," he said.

In California, the powerful Western States Petroleum Assn., composed of the major oil companies, is leading the lobbying drive to defend MTBE. The association spent \$1.8 million on lobbying last year and another \$600,000 in the first quarter of 1997, including \$230,000 for lobbying by Kahl/Pownall Advocates.

The oil industry group is working so closely with state officials that John Dunlap, chairman of the California Air Resources Board, convened a meeting of oil lobbyists and environmentalists last month at the offices of Kahl/Pownall to develop a common strategy.

"This is a unique situation," said Janet Hathaway, an attorney for the Natural Resources Defense Council, which is part of the oil industry coalition. "This is the first time that the oil industry saw their interest as coinciding with the NRDC's."

### **Alliances Form With Oil Interests**

Also allied with oil interests in Sacramento is the American Lung Assn., which supports reformulated gasoline because it has cut air pollution. Ethanol industry officials assert that oil lobbyists have even co-opted the federal Environmental Protection Agency, which supports continued use of MTBE even though it has been classified as a possible carcinogen.

Earlier this month, the Western States Petroleum Assn., the American Institute and the Oxygenated Fuels Assn. sponsored free seminars for local water officials throughout California, extolling the virtues of reformulated gasoline.

Oxybusters had its beginnings in New Jersey, but it has been springing up elsewhere. In California the group is led by Jodi Waters, a Lodi computer consultant who said she believes MTBE has damaged her memory and the health of her four children.

"I didn't have four children so [the government] could poison them," said Waters, who said she first learned about MTBE in November, when she heard an interview with Joseph on KSFO radio.

In virtually every state where Oxybusters is active, it depends heavily on conservative talk shows to spread its message. New Jersey radio talk-show host Jim Gerhardt has created an "Oxybusters" theme song he plays whenever the subject arises on his program.

Radio talk-show personalities see MTBE as a perfect issue for their listeners, most of whom dislike government regulation.

"My job is to build an audience; how I do it is my business," said Geoff Metcalf, a KSFO talk-show host who often focuses on reformulated-gas issues. "They are ballistic over it. . . . The thing that hit their hot button was, 'Don't screw with my car.' "

These radio talk shows have a big impact on politicians, according to Fred Craft, who heads the Oxygenated Fuels Assn. For example, Craft says, Rep. Don Young (R-Alaska) once told him radio talk shows were entirely responsible for his interest in the MTBE issue.

In most states, Oxybusters depends on a single conservative legislator, such as California state Sen. Richard Mountjoy (R-Arcadia), to press the legislature to ban MTBE. Gary Patton, lobbyist for the Planning and Conservation League, contends Mountjoy is using the issue to widen his political base.

"He is running for lieutenant governor," Patton says. "He is trying to make himself the champion of people who believe there is a conspiracy between government and big business. That is what talk radio is selling."

Mountjoy says he became an anti-MTBE convert last year, when he was using gasoline to wash tar off of an automobile fender and his gloves began to dissolve. "I've been washing parts in gasoline for years, and I never had that happen," he says. "That stuff is bad news."

Oxybusters has been so successful at building opposition to MTBE in many states that the oil industry has quietly launched an investigation of the group to determine how it is funded.

The probe recently yielded evidence allegedly demonstrating that Oxybusters receives financial support from Archer-Daniels-Midland through O'Rourke.

Documents apparently taken from O'Rourke's trash and made available to the news media by sources who demanded anonymity indicate that the ethanol public relations specialist has been billing Archer-Daniels-Midland \$5,000 a month plus expenses for his work.

"I don't think O'Rourke created Oxybusters, but I do think he is providing them with valuable professional help," says Arco Chemical's Piernock. "There's no other explanation. Otherwise, you have to believe that all of a sudden, [Oxybusters President] Barry Grossman got a Ph.D. in English literature and started writing beautiful prose."

Documents obtained by The Times indicate that O'Rourke, a former employee of the American Petroleum Institute, is also supplying Archer-Daniels-Midland Vice President Martin L. Andreas with intelligence gleaned from his sources in the petroleum industry.

In a memo dated Nov. 30, 1995, and addressed to Andreas, O'Rourke quoted a friend at the American Petroleum Industry reporting that the oil industry was "extremely concerned" about the growing public outcry against reformulated gas.

O'Rourke strongly denies ever being employed by the giant agribusiness firm. "I write memos to lots of people," he says. "That's my job."

Both Archer-Daniels-Midland and the Alternative Fuels Assn., an ethanol industry group, deny assisting Oxybusters. "We never gave Oxybusters a dime, nor do we have a relationship with them," says Karla Miller, an Archer-Daniels-Midland spokeswoman.

Oxybusters founder Grossman, a salesman from Plainsboro, N.J., insists that the group is financed out of the pockets of its members. He acknowledges receiving advice from O'Rourke but describes it as minimal, adding: "We let anybody help."

O'Rourke says he first got in touch with Grossman because Oxybusters was mistakenly condemning all reformulated gas, including the type using ethanol. He insists that ETBE is harmless. He says he now talks to Grossman no more than twice a month.

From O'Rourke's perspective, the most surprising element of this intrigue is the indication that the oil industry may have spied on him and Oxybusters. He says he has reason to believe that oil industry officials even obtained records of Oxybusters' bank account.

"That just blew my mind," O'Rourke said. "There have been a lot of really wild charges being made here."

# California Deserves Clean Air & Water



FREDERICK L. POTTER

Executive Director

I have been involved in the U.S. and global development of cleaner burning fuels as a motor fuel analyst, publisher and public policy observer in Washington for the past 20 years. On Feb. 24 and 25, the California Environmental Protection Agency took comments on the UCAL Davis study on MTBE and related ground water contamination issues. I had the following to say.

- The leaking underground storage tank problem, which persists in the state of California and the groundwater contamination from motor fuel components, including MTBE, must be solved in the immediate time frame. California citizens deserve no less.
- Let's make sure we all understand the background and public policy rationale for the foundation of the Federal RFG Program, and the important role that the Federal RFG Program and California's RFG — each which includes a major role for MTBE, ethanol and other fuel oxygenates — have played in bringing air quality improvement across the U.S., and many other parts of the world. Without California's leadership, and the lead of the U.S., Europe would not be embarking on its fuel quality improvement program for 2000 and 2005. Lead is being reduced all over the world, and cleaner fuels, lower aromatic, lower sulphur gasolines are being introduced in Asia, South America, Mexico and Canada. The pace and magnitude of this change would be substantially slowed without California's leadership and the proven progress made by its leading refiners. Arco Corp. deserves particular credit. And it's worth noting that this is the 10-year anniversary of Arco's EC-1 Clean Burning Gasoline.
- Now, is not the time to ban MTBE before a thoughtful understanding of the

consequences is fully understood — although MTBE use can be reduced.

## Facts:

- MTBE and other clean burning fuel oxygenates are used in every gallon of gasoline sold in Los Angeles, California.
- Last summer, Los Angeles recorded the cleanest air in 50 years. MTBE was in nearly every gallon sold.
- Federal law requires the use of clean burning oxygenates in Federal RFG including three cities in California.
- In California's neighboring state, Arizona, an all hydrocarbon, low Rvp fuel was used for three continuous summers in Phoenix. Air quality got much worse. In 1997, Federal RFG and California RFG (including the use of MTBE) replaced this nearly all hydrocarbon fuel. As a result, Federal RFG (with MTBE) assisted Phoenix in meeting its air quality standards for the first time in ten years!

Exactly how does MTBE and other oxygenates provide these benefits? And why is Washington so deeply interested in participating in the California decision-making process on this subject?

- When clean burning MTBE is used in RFG, approximately 10% less crude oil is used to make gasoline. The U.S. Congress and other national policy makers clearly understand that MTBE and other clean burning oxygenates like ethanol can lessen U.S. dependence on foreign oil, and reduce the amount of crude oil used at U.S. refineries — thereby also saving stationary source emissions of VOC's, Nox and air toxics. This secondary effect has also been a great benefit to the L.A. basin, and still serves as the basic public policy rationale to the Reformulated Gasoline Amendments to the 1990 Clean Air Act.
- It is precisely for these public policy

reasons why the much discussed Bilbray/Feinstein Legislation hasn't simply sailed through the Congress. It is also why national leaders such as Senator Tom Daschle, EPA Administrator Carol Browner, and U.S. DOE Secretary Bill Richardson, have great difficulty in supporting initiatives that simply propose to ban or phaseout these proven benefits.

- One such proposal has been offered to Governor Gray Davis by U.S. Senator Tom Daschle. He is offering an immediate adoption of the Bilbray/Feinstein Legislation for a two-year period to provide immediate relief to the required amount of MTBE used by California refiners.
- Benzene in gasoline is a known human carcinogen. Recent studies continue to conclude MTBE is not a serious cancer risk to humans. If MTBE is taken out of gasoline, most refiners will increase crude oil processing operations, which results in higher aromatic content gasolines. These aromatics combust into benzene in tailpipe exhaust.
- Higher aromatics will contribute to increase combustion chamber deposits, higher NO<sub>x</sub>, more reactive and ozone forming VOC's, and increased CO<sub>2</sub> and PM 2.5 emissions.

## Back to the water issue:

- According to the California State Audit Report, only 52% of the underground storage tanks are in compliance with the Federal standard of December 1998.
- If pipeline, storage and retail tanks are fixed, MTBE will not leak.

## Conclusion

### If we fix the tanks, we will fix the problem.

Then, California can have not only the world's best 21st Century air and fuel quality programs, but a fuel transportation and storage program that equally serves its citizens in the same quality manner. ■

# Why Fuel Harmonization Makes Sense..... 6

**Premise:** Near-term individual state bans of MTBE will result in the proliferation of “boutique fuels,” increases in gasoline prices, and backsliding in air quality protection. Nonetheless, ongoing Senate energy negotiations have indicated that current state MTBE bans should remain in place in conjunction with an overlapping 4-year federal ban.

**Compromise:** The federal MTBE ban should be accelerated to 3 years from date of enactment, instead of current 4 years. In return, to prevent a shortage in near-term gasoline supply, increases in gasoline prices, near-term air quality backsliding, and allow the smooth introduction of EPA’s Tier II gasoline sulfur rule, all state prohibitions against the use of MTBE shall be deemed enacted consistent with the federal phase-out of MTBE, December 31, 2005.

## According to President Bush in his State of the Union Address,

*“Good jobs also depend on reliable and affordable energy. This Congress must act to encourage conservation, promote technology, build infrastructure, and it must act to increase energy production at home so America is less dependent on foreign oil... On these two key issues, trade and energy, the House of Representatives has acted to create jobs, and I urge the Senate to pass this legislation.”*

## Why Harmonization Makes Sense: Rationale

Individual state MTBE bans will interfere with the ability of refiners to transport, ship and sell throughout the nation the current low cost gasoline that meets required performance standards and air quality requirements.

2. Harmonizing state initiatives to be consistent with a December 31, 2005 federal MTBE ban, will allow EPA’s new Tier II Gasoline Sulfur Rule to be enacted without the creation of unnecessary state “Boutique Fuels” requirements that negatively impact consumer prices.
3. Many states are already looking to either delay current state bans or harmonizing such bans with other states or regions. For example:
  - The California Energy Commission recently reported that the January 1, 2003 California MTBE ban could increase gasoline prices in California by up to 100 percent. The CEC has recommended delaying the California ban for 3 years until December 31, 2005.
  - The Northeast states are seeking to replace individual state MTBE bans with a regional approach. Connecticut supports such a move and also has legislation delaying its state ban until December 31, 2005. Regional harmonization would prevent serious supply shortages, and large price spikes like in the Midwest crisis of 2000, where Chicago and Milwaukee experienced a shortage of the “boutique fuel” gasoline blends. If all states sell the same gasoline, at the same time, a state that runs short has several other supply sources.
4. Harmonization protects the ability of all states to provide adequate gasoline supplies at reasonable prices. According to DOE, MTBE currently makes up more than 4 percent of the total gasoline supply in the US -- and more than 10 percent of gasoline supply in certain states. In the short term, removing more than 4 volume percent will increase gasoline prices by 25 to 30 percent.
5. A December 31, 2005 harmonization allows states additional time to develop options to offset lost air quality protection due to the alteration of gasoline specifications: Without MTBE, many refiners will blend gasoline with more aromatics that emit more harmful air pollutants – thus hindering state’s abilities to reduce exceedances and meet air quality guidelines for the reduction of ozone, carbon monoxide and particulate matter emissions.



**KERN OIL AND REFINING CO.**  
**COMMENTS BEFORE THE CALIFORNIA ENERGY COMMISSION**  
**TUESDAY, FEBRUARY 19, 2002**

**INTRODUCTION**

MY NAME IS CHAD TUTTLE OF KERN OIL AND REFINING CO. (KERN).

THANK YOU FOR THE OPPORTUNITY TO PRESENT THESE COMMENTS AS  
RELATE TO THE POSSIBLE IMPACTS OF MTBE PHASE-OUT ON GASOLINE  
SUPPLIES.

KERN ACKNOWLEDGES THE CONSIDERABLE EFFORT PUT FORTH BY STAFF  
TO MONITOR THE SWITCH TO MTBE-FREE GASOLINE WITH THE ULTIMATE  
GOAL OF A SMOOTH TRANSITION.

**KERN SUPPORTS STAFF FINDINGS**

KERN SUPPORTS THE STAFF'S (AND CONTRACTOR'S) FINDINGS THAT  
THERE MAY (AND MOST LIKELY WILL) BE SUPPLY SHORTFALLS OF  
GASOLINE AND GASOLINE BLENDING COMPONENTS IF THE PHASE OUT OF  
MTBE WERE TO PROCEED AS SCHEDULED BY THE END OF THIS YEAR  
(2002). WE ARE PLEASED GOVERNOR DAVIS RECOGNIZES THE  
IMPORTANCE OF CLOSELY MONITORING THE SWITCH AND IS NOW  
CONSIDERING TAKING APPROPRIATE ACTION TO INSURE A SMOOTH  
TRANSITION. THIS APPROACH IS CONSISTENT WITH GOVERNOR DAVIS  
COMMENTS TO CALIFORNIA REFINERS ON MARCH 26, 1999 FOLLOWING HIS

## COMMENTS BEFORE THE CALIFORNIA ENERGY COMMISSION

FEBRUARY 19, 2002

PAGE 2

DECISION TO PHASE-OUT MTBE. SPECIFICALLY, HE STATED THAT THE PHASE-OUT DATE "IS NOT LOCKED IN CONCRETE" WHILE CHALLENGING REFINERS TO WORK TOWARD THE EARLIEST POSSIBLE PHASE-OUT OF MTBE. AS RELATES TO THE PENDING DECISION, IT IS NOTEWORTHY THAT MANY REFINERS PREFACED THEIR SUPPORT OF THE CURRENT PHASE-OUT DEADLINE ON THE SUCCESS OF A CALIFORNIA OXYGENATE WAIVER. KERN HAS REMAINED NEUTRAL ON THE WAIVER. IN THE BROADER CONTEXT, MUCH OF THE UNCERTAINTY OF GASOLINE SUPPLY, MAY RELATE TO THE UNCERTAINTY OF THE OXYGENATE WAIVER.

### TIMING

PRIOR EXPERIENCES IN CALIFORNIA CERTAINLY INDICATE CAUSE FOR CONCERN. CALIFORNIA EXPERIENCED MARKET INSTABILITY DURING THE INTRODUCTION OF REFORMULATED DIESEL, REFORMUALTED GASOLINE, AND MOST RECENTLY ELECTRICITY DEREGULATION. IN EACH OF THESE CASES, WE THOUGHT WE WERE WELL PREPARED AND STILL EXPERIENCED DISRUPTIONS. TODAY, WE KNOW WE ARE NOT WELL PREPARED WHICH AT BEST WILL LEAD TO DISRUPTIONS

**COMMENTS BEFORE THE CALIFORNIA ENERGY COMMISSION**

**FEBRUARY 19, 2002**

**PAGE 3**

THE TIMING OF GOVERNOR DAVIS' DECISION IS THE SINGLE MOST  
IMPORTANT ISSUE FOR KERN. A DECISION IS NEEDED TODAY. KERN IS  
DEVOTING SUBSTANTIAL RESOURCES TOWARD MULTIPLE BUSINESS  
PLANS WITH VARYING PHASE-OUT DEADLINES. THE PROCESS OF HAVING  
TO CREATE THESE SEVERAL UNIQUE BUSINESS PLANS IS COSTLY AND  
INEFFICIENT. THIS ATMOSPHERE OF UNCERTAINTY IS FURTHER  
COMPLICATING AND DISTRACTING FOR KERN, A SMALL BUSINESS  
REFINER WITH LIMITED RESOURCES. **KERN SUPPORTS AT LEAST A 10-  
MONTH EXTENSION OF THE MTBE PHASE-OUT DEADLINE.** WE BELIEVE  
AN EXTENSION IS WARRANTED BASED ON THE FOLLOWING POINTS.

ADDITIONAL TIME IS NEEDED TO CONCLUDE THE ADMINISTRATIVE,  
LEGAL, AND LEGISLATIVE PROCEEDINGS RELATED TO  
CALIFORNIA'S OXYGENATE WAIVER REQUEST.

PERMITTING DELAYS HAVE OCCURRED, PARTICULARLY IN THE BAY  
AREA, AND ADDITIONAL TIME MAY BE NEEDED TO SECURE  
PERMITS FOR REFINERY RE-TOOLING. WE UNDERSTAND THERE HAS  
BEEN SOME RECENT PROGRESS TOWARD SECURING PERMITS.

**COMMENTS BEFORE THE CALIFORNIA ENERGY COMMISSION**

**FEBRUARY 19, 2002**

**PAGE 4**

ETHANOL SUPPLY CHAIN INFRASTRUCTURE IS NOT YET IN PLACE  
AND IN PARTICULAR, THAT RELATED TO NEEDED RAILCAR  
INVENTORY EXPANSION. [DAI REPORT, 1/15/02, 260 CARS TODAY  
VERSUS 2,600]

- **KERN'S EXTENSIVE EXPERIENCE WITH RAIL SUPPLY IS NOT  
GOOD. WE OFTEN EXPERIENCE SUPPLY DISRUPTIONS AS RELATES  
TO OUR BLEND COMPONENT DELIVERIES (IMPORTS) FROM OTHER  
PADDS. KERN MUST FREQUENTLY "THREAD THE NEEDLE" TO  
INSURE DELIVERIES OF BLENDSTOCKS. THIS IS ESPECIALLY  
NOTEWORTHY BASED ON KERN'S LIMITED PROCESSING  
CONFIGURATION AND DEPENDANCE ON IMPORTED BLENDSTOCKS.  
WE CAN SPEAK FROM EXPERIENCE. WE OFTEN REFER TO THE  
RAILROAD SYSTEM AS A "BRUTE FORCE" MEANS OF RECEIVING  
AND RELYING UPON GASOLINE BLENDSTOCK SUPPLY.  
ADDITIONAL TIME WOULD ALLOW COMMERCIAL NEGOTIATIONS  
WITH ETHANOL SUPPLY INTERESTS TO STABILIZE**

**COMMENTS BEFORE THE CALIFORNIA ENERGY COMMISSION**

**FEBRUARY 19, 2002**

**PAGE 5**

SUPPLY, AS WELL AS EVEN THE IDENTIFICATION OF IMPORTED  
NON-ETHANOL GASOLINE BLENDSTOCKS, CONTINUES TO BE  
UNCERTAIN WITH OTHER STATES FOLLOWING CALIFORNIA.

**SOME BACKGROUND ON KERN**

KERN IS A SMALL INDEPENDENT REFINERY LOCATED IN BAKERSFIELD,  
CALIFORNIA, EMPLOYS JUST OVER 100 PEOPLE, AND HAS SUPPLIED  
MOTOR FUELS FOR OVER 65 YEARS. WE HAVE SUPPORTED THE USE OF  
MTBE, ITS GASOLINE MANUFACTURING, AND AIR QUALITY BENEFITS.  
AFTER COMMITTING MILLIONS OF DOLLARS TO UPGRADE, KERN IS  
THE ONLY SMALL INDEPENDENT REFINER PRODUCING CALIFORNIA  
REFORMULATED GASOLINE AND IS PROBABLY NEGATIVELY  
IMPACTED BY THE PHASE-OUT OF MTBE MORE THAN ANY REFINER IN  
THE STATE. IT IS IMPORTANT TO NOTE THAT KERN MARKETS ITS  
GASOLINE AND DIESEL TO BOTH THE INDEPENDENT AND BRANDED  
MARKETS IN THE SAN JOAQUIN VALLEY, HIGH DESERT, AND CENTRAL  
COAST. THE COMPETITIVE MARKET IMPACTS ARE CLEAR; KERN  
PLAYS A SUBSTANTIAL ROLE AND PARTICULARLY IN THE CENTRAL  
VALLEY.

## COMMENTS BEFORE THE CALIFORNIA ENERGY COMMISSION

FEBRUARY 19, 2002

PAGE 6

### CLOSING

AGAIN, KERN SUPPORTS THE OVERALL STAFF EVALUATION THAT THERE MAY (AND MOST LIKELY WILL) BE SUPPLY SHORTFALLS OF GASOLINE AND GASOLINE BLENDING COMPONENTS IF THE PHASE-OUT OF MTBE WERE TO PROCEED AS SCHEDULED BY THE END OF THIS YEAR (2002).

- KERN IS A VESTED STAKEHOLDER.
- KERN WOULD LIKE TO AGAIN EMPHASIZE THE IMPORTANCE OF A DECISION NOW. WE ARE “AT THE POINT OF NO RETURN” WITH REGARD TO CERTAIN IRREVERSIBLE DECISIONS AND COMMITMENTS TO INSURE REFINERY COMPLAINEE WITH THE CURRENT DEADLINE. SHOULD WE NOW TERM UP ETHANOL SUPPLY? SHOULD WE NOW SERVE NOTICE OF CANCELLATION WITH REGARD TO MTBE CONTRACTS? SHOULD WE EXTEND OUR MTBE CONTRACTS? SHOULD WE NOW CONTRACT FOR RAILROAD TRANSPORTATION? THESE QUESTIONS AND CONSIDERATIONS GO ON AND ON AND ON. **BOTH WE AND OUR SUPPLIERS NEED TO KNOW WHAT TO DO NOW.**

**COMMENTS BEFORE THE CALIFORNIA ENERGY COMMISSION**

**FEBRUARY 19, 2002**

**PAGE 7**

- ❑ KERN BELIEVES AT LEAST A 10-MONTH EXTENSION IS APPROPRIATE. ALL THE LINKS OF THE SUPPLY CHAIN MUST BE IN PLACE. THAT IS, ETHANOL PRODUCTION, TRANSPORTATION INFRASTRUCTURE, REFINERY RE-TOOLING, AND TERMINAL MODIFICATIONS.
- ❑ THE SUCCESS OF THE PHASE-OUT WILL DEPEND ON THE WEAKEST LINK AND IF THE ETHANOL TRANSPORTATION (INFRASTRUCTURE) CONCERNS ARE CONFIRMED, THE GOVERNOR NEEDS TO STEP IN...SOON.
- ❑ CALIFORNIA'S ECONOMY IS DEPENDENT UPON THE ELEMENT OF COMPETITION THAT KERN PROVIDES. KEEP INDEPENDENT GASOLINE AND DIESEL IN CALIFORNIA.

THAT CONCLUDES MY REMARKS.

## Pat Perez - Comments from Lyondell Chemical Co.

---

**From:** "Giacobbe, Glenn B." <Glenn.Giacobbe@Lyondell.com>  
**To:** "pperez@energy.state.ca.us" <pperez@energy.state.ca.us>  
**Date:** 3/1/02 2:11 PM  
**Subject:** Comments from Lyondell Chemical Co.

---

Dear Mr. Perez,

Enclosed are Lyondell Chemical Co.'s comments on the Possible Impacts of the MTBE Phase-out in California. We commend the CEC for undertaking this important study to fully comprehend the impacts of an MTBE ban. We appreciate the opportunity to submit our comments in the attached Word document.

In our comments we referenced a number of studies as the basis for our comments. If you would like a copy of these sources please do not hesitate to ask.

Yours truly,  
Glenn B. Giacobbe  
Lyondell Chemical Co.  
Houston, TX 77345  
713-309-2064  
glenn.giacobbe@lyondell.com <<mailto:glenn.giacobbe@lyondell.com>>

<<CEC Stillwater Comments Lyondell.doc>>



**Comments from Lyondell Chemical Company to the California Energy Commission  
on the Possible Impacts of MTBE Phase Out on Gasoline Supplies.**

Lyondell is pleased to offer the following comments to the California Energy Commission on the Stillwater Associates recommendation to delay the MTBE ban in California.

- **Lyondell supports the recommendation to delay the MTBE ban for three years or more.**

Lyondell agrees with the conclusions by Stillwater Associates that if a MTBE ban were to take place at the end of this year (2002) serious supply disruptions would result. The impact on the California economy would be as severe as the power shortages during the winter of 2000/2001 and would likely be sustained for a period of several years.

Stillwater's analysis clearly shows that gasoline which meets the states unique specifications are limited in production. Outside of California refiners, other U.S. and world refiners cannot make significant quantities of the material. MTBE is a critical component required to meet CARB gasoline specifications. Volumes of up to 11% are necessary to meet many of the Phase II specifications such as aromatics and olefin caps, low distillation temperatures, and the 2% oxygen standard, while maintaining adequate supplies. MTBE also figures predominately into the octane balance. No other component is capable of simultaneously maintaining emissions reductions and supplying volumes commensurate with demand at reasonable prices.

Lyondell believes that the ban should not only be delayed until the end of 2005 but indefinitely. Many of the original motivations for the ban have not materialized such as the threat to groundwater supplies.

**Water Contamination problems have not materialized as predicted.**

In 1999 when the Executive Order was issued there was a widely held belief that the occurrence and severity of the MTBE water contamination problem would continue to worsen. Now, three years later, the contamination problem has turned out to be negligible in comparison. The following facts are drawn from information and data from the Department of Health Services, the SWRCB, and the U.S. EPA.

- **The detection rate in California drinking water supplies has declined steadily from about 3% of all sources in 1995 to 1% in 2000. The concentrations of MTBE in those supplies (detections only) have gone from almost 60 ppb to about 10 ppb during the same period of time. <sup>1</sup>**
- **Drinking water exposures to MTBE are unlikely to pose a significant health risk for the general population or even highly exposed individuals in California such as service station or refinery workers. <sup>2</sup>**

**Of the 1200 wells that have been closed in California with exceedances above the Maximum Contaminant Level, only 6 were due to MTBE. <sup>3</sup>**

- Over 80% of the UST remediation efforts throughout the US are dictated by the presence of benzene, not MTBE. Where MTBE is the leading contaminate, the cost of remediation is only 20% higher. The additional cost to fix all UST's in the U.S. due to MTBE contamination is estimated at \$250 million, not the billions of dollars estimated by other sources. <sup>4</sup>**

We believe these facts provide a compelling reason for why a ban of MTBE may not be necessary at all.

**The supply reduction predicted by Stillwater and Associates is a direct effect of ethanol's properties and has little to do with the presence of the oxygen standard.**

If the oxygen standard were removed from CARB RFG III specifications, the supply reductions predicted by Stillwater would not go away. Under a scenario where MTBE is banned and the oxygen waiver granted, the use of ethanol would likely go down but the amount of pentanes that are backed out would remain unchanged. This is due to a unique property of ethanol where most of the increased vapor pressure comes with the first barrels added. So in order to get relief from the pentanes almost all of the ethanol must be removed. In this case the volume balance is still short 5-6%. According to Stillwater, the amount of pentanes removed from California gasoline is about one for one for every barrel of ethanol added.

Increasing the amount of ethanol above the 5.7 vol.% required by the oxygen standard (equivalent to 2.0 wt.%) would cause an increase in NOx emissions.

MTBE is unlike ethanol in this regard and similar to the rest of the crude oil based components of gasoline. Under a scenario where the oxygen standard is waived and MTBE is not banned, MTBE would continue to be used in sufficient quantities to prevent a supply shortfall. The additional cost in this case would be significantly less than that required to reduce consumption.

This argument is not intended to dispute claims in the Stillwater report but instead is in direct response to reactions by the press and Governor Davis in the days immediately following the CEC workshop. <sup>5</sup>

**Merchant MTBE producers on the Gulf Coast are unlikely to convert to isooctane or alkylate because of anticipated unfavorable economics. <sup>6</sup>**

The price of isooctane or alkylate would have to rise to levels substantially above current values in order to cover the cost of production and investment. According to a PACE analysis from May 2001, alkylate on the Gulf Coast has historically traded at a premium of about 5-10 cents per gallon (CPG) above unleaded regular, a level sufficient to cover the cost of non-merchant, refinery based production. The premium required to cover the

cost of a typical merchant facility using butane dehydrogenation technology would have to be on the order of 20-30 CPG. The report concluded that the prospect for these types of values to be sustained long enough to justify conversion by a typical merchant MTBE producer is grim.

Lyondell employs an MTBE technology based on the production of Propylene Oxide (PO) and Tertiary Butyl Alcohol (TBA). PO is the primary product with TBA as the co-product. TBA is dehydrated to isobutylene, one of the two primary ingredients of MTBE. Because of the link to PO, Lyondell is likely to continue the production of TBA under an MTBE ban. At this time, however, no definitive plans have been made as to the ultimate disposition of the TBA. The only definitive statement that can be made at this time is that Lyondell will be unable to meet the December 2002 deadline for the supply of anything but MTBE.

---

<sup>1</sup> Williams, Pamela R. D. MTBE in California Drinking Water: An Analysis of Patterns and Trends. Environmental Forensics, 2001, 2, 75-85.

<sup>2</sup> Williams, Pamela R. D., Paul K. Scott, Patrick J. Sheehan, and Dennis Paustenbach. A Probabilistic Assessment of Household Exposures to MTBE from Drinking Water. Human and Ecological Risk Assessment, Vol. 6, No. 5, pp. 827-849.

<sup>3</sup> Giannopolous, James, CA SWRCB, PowerPoint Presentation. An Overview of Groundwater Quality Throughout the State. 2002

<sup>4</sup> Wilson, Barbara H. Hai Shen and Dan Pope. Cost of MTBE Remediation. Dynamac Corporation, Report prepared for the U.S. EPA and presented by the EPA at the Batelle Conference in San Diego, CA, June 2001.

<sup>5</sup> California Gas Prices Could Double if Sate Proceeds With Ethanol Plan, The Wall Street Journal On-Line February 20, 2002. California Should Postpone MTBE Ban Until Late 2005, Dow Jones Energy Services, February 19, 2002. USA: California should defer MTBE ban until 2005, Reuters English News Service. Davis Shifts on MTBE to Avert Crisis, Los Angeles Time, February 23, 2002.

<sup>6</sup> PACE Consultants Inc. Economic Analysis of U.S. MTBE Production Under an MTBE Ban, draft report. Prepared for the U.S. EPA, May 2001.

## Pat Perez - Comments on CEC California MTBE Phase Out Report

---

**From:** "Morgan, Mary F." <mary\_morgan@kindermorgan.com>  
**To:** "gschremp@energy.state.ca.us" <gschremp@energy.state.ca.us>  
**Date:** 2/27/02 9:31 AM  
**Subject:** Comments on CEC California MTBE Phase Out Report  
**CC:** "Holland, James" <HollandJ@kindermorgan.com>, "Kehlet, Jim" <KehletJ@kindermorgan.com>

---

Gordon,

I have prepared comments on behalf of Kinder Morgan on the DRAFT MTBE Phase Out in California Report dated 2/18/02. (see below). I hope you will be able to incorporate these comments in the final report. Please call me at 713-369-9448 if you have any comments or need additional information.

Also, I don't believe we have recieved the draft report on the Pipeline Study yet. I expect to have more comments on that report related to our East Line Expansion. I did not go into any more detail in my comments below on the MTBE Phase Out because I think the other report is probably the appropriate place for my my detailed comments.

Thanks

-----  
**EXECUTIVE SUMMARY - Bottom of Page 3**

In Southern California: the extension of the Longhorn pipeline to Phoenix, AZ, which will enable additional supplies of gasoline to be transported to the East, thus allowing 70 to 90 TBD to remain in the CA market that is currently exported to Phoenix from Southern California refineries.

Should be changed to read as follows:

In Southern California: the expansion of the Kinder Morgan East Line pipeline from El Paso, Texas to Tucson and Phoenix, Arizona, which will enable additional supplies of gasoline to be transported to the East, thus allowing 50 to 60 TBD to remain in the CA market that is currently exported to Phoenix and Tucson from Southern California refineries.

-----  
**Section 4.6 Longhorn Pipeline - Bottom of Page 38**

Once product from the Longhorn pipeline reaches El Paso, it is anticipated that Kinder Morgan East Line will be looped to permit additional product movement all the way to Tucson and Phoenix.

Should be changed to read as follows

Once product from the Longhorn pipeline reaches El Paso, it is anticipated that the Kinder Morgan East Line will be expanded to permit additional product movement all the way to Tucson and Phoenix.

## Pat Perez - Possible Impacts of MTBE Phaseout on Gasoline Supplies

---

**From:** "Bob Wright" <BWright@methanex.com>  
**To:** <Pperez@energy.state.ca.us>  
**Date:** 2/26/02 4:33 PM  
**Subject:** Possible Impacts of MTBE Phaseout on Gasoline Supplies

Formal Comments by Methanex, Inc  
on Possible Impacts of MTBE Phaseout on Gasoline Supplies

Methanex, Inc. appreciates the initiative taken by the California Energy Commission staff to explore the ramifications of a scheduled MTBE phaseout now set for 12/31/2002. The Stillwater report provides a sobering assessment of difficulties that appear to require resolution ahead of a scheduled MTBE phaseout. Given the reports findings, their recommendation of an MTBE ban delay to late 2005 is understandable. We assume that all parties are united that if a ban is still deemed warranted that the conditions must exist to reasonably anticipate a transparent change to consumers which would thereby be protective to the California economy. To maintain the current course of a ban by the end of 2002 whose timing was created when predictions of dire consequences surrounded the debate would appear to by no means value the potential economic impacts and concerns expressed in the contractor report. So, while we certainly do not know how the Governor will consider and weigh this report and more importantly the California Energy Commission staff report due by March 8th based in part on the Stillwater report and presumably considering the CEC staffs broad understanding of the issues involved, we remain hopeful that the unbiased staff talent input will be seriously considered.

Since the California Energy Commission is doing it's traditional dilligent work and has revisited earlier beliefs considered critical to an assessment by policy makers, as stated in the Gordon Schrempp opening remarks at the Workshop, an approach which we both support and appreciate, we ask that consideration be given to reopen and reevaluate the fundamental positions, speculations and beliefs at the time brought forward by the University of California report which lead to the Governor's Executive Order. We believe that since there is evidence now where once there was only speculation as to what the future would hold, that the facts should replace the no longer valid earlier predictions. (1)

The Methanol Institute contracted Malcolm Pirnie to create an assessment and report which is titled, "Water Quality Impacts of MTBE: An Update Since the Release of the UC Report" which shows stark, fortunately positive, differences between what has happened and what was projected to happen using California Department of Health Services current MTBE detect data. This update report is attached and we would request that it be included in the record and considered either directly and/or as an example that justifies reopening the question which might simply be asked--do we have a problem of such proportion that a ban is still considered the fair and proper conclusion?

While it may be that reasonable people can disagree reasonably once all the facts are laid out, providing that base knowledge is the meritorious initiative that has been rekindled appropriately by staffs appreciation that at least some earlier beliefs were incorrect and that relying on those incorrect beliefs would damage the quality of the reevaluation which the Governor is pondering, we ask that a focus be granted to the broader question of whether MTBE has risen to the level that it was believed it would. There is a great deal of new, enlightening information which seems to support that as others have grappled with various MTBE related issues with the benefit of more current information than existed when the Governor had to make a decision that other reasonable people and governmental entities have essentially found that the issues raised are manageable. Whether that would be the conclusion for California of a reevaluation is unclear but we feel that it would be appropriate to make such a comprehensive update since there appears a reasonable chance that the death sentence given MTBE in California seems excessively harsh and potentially counterproductive to the environment and the economy of the state.

We appreciate the opportunity to make these comments. We appreciate the work of the CEC staff and their consultant, Stillwater Associates. Thank you for your consideration and thank you for your ongoing efforts to bring forward full and complete quality information on energy issues that enable policy based on facts as they are understood.

Sincerely,

Bob Wright

Director, Government and Industry Relations

Methanex, Inc.

12947 Woodstock Dr.

Nevada City, Ca. 95959

tel 530-265-4823